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7

8 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:	Case No. AC-2004-29
12 RICHARD R. ROSS	OAH No.
13 1613 E. Glenhaven Dr.	DEFAULT DECISION
13 Phoenix, AZ 85048	AND ORDER
14 Certified Public Accountant	[Gov. Code, §11520]
14 Certificate No. 61876	
15 Respondent.	

16 **FINDINGS OF FACT**

- 17 1. On or about September 13, 2004, Complainant Carol Sigmann, in her
18 official capacity as the Executive Officer of the California Board of Accountancy, Department of
19 Consumer Affairs, filed Accusation No. AC-2004-29 against Richard R. Ross (Respondent)
20 before the California Board of Accountancy.
- 21 2. On or about May 14, 1992, the California Board of Accountancy (Board)
22 issued Certified Public Accountant License No. CPA 61876 to Respondent. The Certified Public
23 Accountant License expired on December 1, 2002, and has not been renewed.
- 24 3. On or about September 29, 2004, Rebeca Garcia, an employee of the
25 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
26 AC-2004-29, Statement to Respondent, Notice of Defense, Request for Discovery, and
27 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
28 with the Board, which was and is 1613 E. Glenhave Drive, Phoenix, AZ 85048. A copy of the

1 Accusation, the related documents, and Declaration of Service are attached as exhibit A, and are
2 incorporated herein by reference.

3 4. Service of the Accusation was effective as a matter of law under the
4 provisions of Government Code section 11505, subdivision (c).

5 5. On or about October 16, 2004, the aforementioned documents were
6 returned by the U.S. Postal Service marked "Unclaimed." A copy of the postal returned
7 documents are incorporated herein by reference.

8 6. Business and Professions Code section 118 states, in pertinent part:

9 "(b) The suspension, expiration, or forfeiture by operation of law of a license
10 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the
11 board or by order of a court of law, or its surrender without the written consent of the board,
12 shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive
13 the board of its authority to institute or continue a disciplinary proceeding against the licensee
14 upon any ground provided by law or to enter an order suspending or revoking the license or
15 otherwise taking disciplinary action against the license on any such ground."

16 7. Government Code section 11506 states, in pertinent part:

17 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
18 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
19 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
20 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

21 8. Respondent failed to file a Notice of Defense within 15 days after service
22 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
23 Accusation No. AC-2004-29.

24 9. California Government Code section 11520 states, in pertinent part:

25 "(a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions or
27 upon other evidence and affidavits may be used as evidence without any notice to
28 respondent."

1 10. Pursuant to its authority under Government Code section 11520, the Board
2 finds Respondent is in default. The Board will take action without further hearing and, based on
3 Respondent's express admissions by way of default and the evidence before it, contained in
4 exhibits A and B finds that the allegations in Accusation No. AC-2004-29 are true.

5 11. The total costs for investigation and enforcement are \$1,792.59 as of
6 January 4, 2005.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Richard R. Ross has
9 subjected his Certified Public Accountant License No. CPA 61876 to discipline.

10 2. A copy of the Accusation and the related documents and Declaration of
11 Service are attached.

12 3. The agency has jurisdiction to adjudicate this case by default.

13 4. The California Board of Accountancy is authorized to revoke Respondent's
14 Certified Public Accountant License based upon the following violations alleged in the
15 Accusation:

16 a. Business and Professions Code section 5100(h), suspension or revocation
17 of the right to practice before any governmental body or agency.

18 b. Business and Professions Code section 5063(a)(3), a licensee shall report
19 to the Board in writing of the occurrence of the cancellation, revocation, or suspension of the
20 right to practice as a certified public accountant or a public accountant before any governmental
21 body or agency.

22 ORDER

23 IT IS SO ORDERED that Certified Public Accountant License No. CPA 61876,
24 heretofore issued to Respondent Richard R. Ross, is revoked.

25 Pursuant to Government Code section 11520, subdivision (c), Respondent may
26 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
27 within seven (7) days after service of the Decision on Respondent. The agency in its discretion

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1 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
2 statute.

3 This Decision shall become effective on April 22, 2005.

4 It is so ORDERED March 23, 2005

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6 FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
7 DEPARTMENT OF CONSUMER AFFAIRS

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Ross-default.wpd
1/4/05 - lbf
DOJ docket number: LA2004600821

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27 Attachments:

28 Exhibit A: Accusation No.AC-2004-29, Related Documents, and Declaration of Service

Exhibit A

Accusation No. AC-2004-29,
Related Documents and Declaration of Service

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**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2004-29

RICHARD R. ROSS
1613 E. Glenhaven Drive
Phoenix, AZ 85048

OAH No.

A C C U S A T I O N

Certified Public Accountant License No CPA
61876

Respondent.

Complainant alleges:

PARTIES

1. Carol Sigmann (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy (Board), Department of Consumer Affairs.

2. On or about May 14, 1992, the Board issued Certified Public Accountant License No. CPA 61876 to Richard R. Ross (Respondent). The certificate was in an active status for the period May 14, 1992 through November 30, 1992. The certificate was expired and was not valid during the period December 1, 1992 through December 13, 1992. Effective December 14, 1992, the certificate was renewed through November 30, 1994, upon receipt of the renewal fee and declaration of compliance with continuing education requirements. The certificate was expired and was not valid during the period December 1, 1996 through March 30, 1999.

1 Effective March 31, 1999, the certificate was renewed through November 30, 2000, upon receipt
2 of the renewal fee; however, compliance with continuing education requirements was not met and
3 the certificate was placed in an inactive status. The certificate was renewed for the period
4 December 1, 2000 through November 30, 2002, without continuing education ("inactive.") The
5 certificate expired on December 1, 2002, and is currently in a delinquent status.

6 JURISDICTION

7 3. This Accusation is brought before the Board, Department of Consumer
8 Affairs, under the authority of the following laws. All section references are to the Business and
9 Professions Code unless otherwise indicated.

10 4. Section 5100 states:

11 "After notice and hearing the board may revoke, suspend or refuse to renew any
12 permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5
13 (commencing with Section 5080), or may censure the holder of that permit or certificate for
14 unprofessional conduct which includes, but is not limited to, one or any combination of the
15 following causes:

16

17 "(h) Suspension or revocation of the right to practice before any governmental
18 body or agency."

19 5. Section 5109 states:

20 "The expiration, cancellation, forfeiture, or suspension of a license by operation of
21 law or by order or decision of the board or a court of law, or the voluntary surrender of a license
22 by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or
23 action or disciplinary proceeding against the licensee, or to render a decision suspending or
24 revoking the license."

25 6. Section 5063 states:

26 (a) A licensee shall report to the board in writing of the occurrence of any of
27 the following events occurring on or after January 1, 1997, within 30 days of the date the licensee
28 has knowledge of these events:

1
2 (3) The cancellation, revocation, or suspension of the right to practice as a
3 certified public accountant or a public accountant before any governmental body or agency.

4 7. Section 5107 provides, in pertinent part, that the Board's Executive
5 Officer may request the administrative law judge, as part of the proposed decision in a disciplinary
6 proceeding, to direct a respondent found to have committed specified acts of unprofessional
7 conduct to pay to the Board all reasonable costs of investigation and prosecution of the case,
8 including, but not limited to, attorney's fees.

9 FIRST CAUSE FOR DISCIPLINE

10 (Suspension)

11 7. Respondent is subject to disciplinary action pursuant to section 5100 on the
12 grounds of unprofessional conduct as defined in section 5100(h) by reason of the following facts:

- 13 a. On or about February 4, 2004, the United States Securities and Exchange
14 Commission ("SEC") issued an order suspending Respondent from
15 appearing or practicing before the SEC as stated in the Administrative
16 Proceeding, File No. 3-11392 entitled In the Matter of Richard R. Ross,
17 CPA.
- 18 b. From April 1997 to April 2000, Respondent was the chief financial officer
19 of Styling Technology Corporation (Styling). The suspension was based
20 on findings that Respondent engaged in a number of accounting practices
21 that were not in accordance with Generally Accepted Accounting
22 Principles (GAAP) and that materially inflated Styling's reported earnings.
23 More specifically, during 1997 and 1998, Respondent directed or approved
24 the recording of revenue from transactions in which Styling did not ship
25 any product or in which the company merely shipped product between
26 warehouses it controlled. In addition, during 1999, Respondent continued
27 to direct or approve the recognition of revenue from sales that did not meet
28 GAAP criteria, and Respondent and others falsely attributed the write-off

1 of \$4.1 million of uncollectible accounts receivable to a strategic business
2 realignment.

3 SECOND CAUSE FOR DISCIPLINE

4 (Failure to Report Suspension)

5 8. Respondent is subject to disciplinary action pursuant to section 5100 on the
6 grounds of unprofessional conduct in violation of section 5063 in that Respondent failed to report
7 the SEC suspension to the Board within 30 days of the suspension date of February 4, 2004.

8 PRAYER

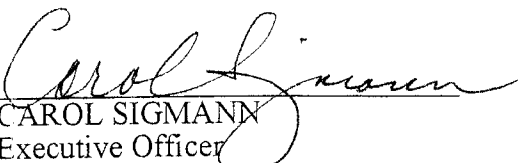
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

11 1. Revoking, suspending or otherwise imposing discipline upon Certified
12 Public Accountant License No. CPA 61876, issued to Richard R. Ross.

13 2. Ordering Richard R. Ross to pay the California Board of Accountancy the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 5107;

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: September 13, 2004

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19 
20 CAROL SIGMANN
21 Executive Officer
22 California Board of Accountancy
23 Department of Consumer Affairs
24 State of California
25 Complainant

26 LA2004600821

27 7/26/04 - lbf

28 Ross, Richard Draft Accusation_wpd.DEFANGED-148